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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/584,375	05/31/2000	Bruce Henry Garvie	GAR-001	1354

7590 12/17/2001

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EXAMINER

STASHICK, ANTHONY D

ART UNIT	PAPER NUMBER
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3728

DATE MAILED: 12/17/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/584,375

Applicant(s)

GARVIE, BRUCE HENRY

Examiner

Anthony D Stashick

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 October 2001.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 10-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 10-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 May 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4, 5, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over McNeill 5,996,260 in view of Carroll 5,794,367. McNeill '260 discloses all the limitations substantially as claimed including the following: an insert 21 made of synthetic plastic and a plastic traction member 20 secured to the insert during molding; the material of the traction member being softer (i.e. less hard) than the material of the base (see col. 3, lines 11-42); a stem 24; engagement means 26 at a first end of the stem for releasable engagement with an engagement formation in the undersole of footwear; securing formation extending from the stem (arms shown in Figures 2 and 4) for securing the traction member to the insert; raised spike 16 opposite the first end of the stem and aligned with a traction member spike and can function as a visual wear indicator; insert and traction member are made of different colors (col. 3, line 58-col. 4, line 11); flange (arms of stem shown in Figures 2 and 4) extending orthogonally from the stem. McNeill '260 does not disclose the stem portion of the cleat being made of plastic. Carroll '367 teaches that the threaded stem section of a cleat can be made of plastic as the traction member of the cleat is made of plastic (see col. 2, lines 22-26). Therefore, it would have been obvious, to one of ordinary skill in the art at the time the invention was made, to make the cleat, including the stem, of McNeill '260 out of plastic as taught by Carroll '367 to make it more light in weight and to allow for integral molding of the traction member and the fastening stem.

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3. Claims 1, 2, 74, 5, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over McNeill 5,996,260 in view of Singer et al. 6,138,386. McNeill '260 discloses all the limitations substantially as claimed including the following: an insert 21 made of synthetic plastic and a plastic traction member 20 secured to the insert during molding; the material of the traction member being softer (i.e. less hard) than the material of the base (see col. 3, lines 11-42); a stem 24; engagement means 26 at a first end of the stem for releasable engagement with an engagement formation in the undersole of footwear; securing formation extending from the stem (arms shown in Figures 2 and 4) for securing the traction member to the insert; raised spike 16 opposite the first end of the stem and aligned with a traction member spike and can function as a visual wear indicator; insert and traction member are made of different colors (col. 3, line 58-col. 4, line 11); flange (arms of stem shown in Figures 2 and 4) extending orthogonally from the stem. McNeill '260 does not disclose the stem portion of the cleat being made of plastic. Singer et al. '386 teaches that the stem portion 62 of a cleat with radial arms 96 can be made of a harder plastic than that of the traction member 70 to allow for better grip of the threads of the traction member 62 and allow for cushioning of the impact and distribution of weight of the user during use. Therefore, it would have been obvious to make the stem of McNeill '260 out of harder plastic than that of the traction member, as taught by Singer et al. '386, to allow for the cleat to be lighter in weight and to allow for better fastening of the cleat to the shoe while still maintaining cushioning of the user's weight with the cleat.

4. Claims 3 and 11 are rejected under 35 U.S.C. 103(a) as being obvious over the references as applied to claims 1 and 10 above. The references as applied to claims 3 and 11 disclose the use of harder material for the insert and softer material for the traction member. It would have been obvious, to one of ordinary skill in the art, to find a harder material for the insert and a softer material for the traction member of the references as applied to claims 3 and 11 above since the exact hardness determination appears to not be critical to the invention. It has been held that where the general

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conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

### *Response to Arguments*

5. Applicant's arguments with respect to claims 1-5 and 10-11 have been considered but are moot in view of the new ground(s) of rejection.

### *Conclusion*

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and are cited on form 892 enclosed herewith.

Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, "should be directed to the group clerical personnel and not to the examiners. In as much as the official records and applications are located in the clerical section of the examining groups, the clerical personnel can readily provide status information without contacting the examiners", M.P.E.P. 203.08. The Group clerical receptionist number is (703) 308-1148.

If in receiving this Office Action it is apparent to applicant that certain documents are missing, e.g., copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers or other general questions should be directed to Tech Center 3700 Customer Service at (703) 306-5648, email [CustomerService3700@uspto.gov](mailto:CustomerService3700@uspto.gov).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anthony D Stashick whose telephone number is 703-308-3876. The examiner can normally be reached on Tuesday through Friday from 8:30 am until 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 703-308-2672. The fax phone numbers for the organization where this

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application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

Other helpful telephone numbers are listed for applicant's benefit.

Allowed Files & Publication	(703) 305-8322
Assignment Branch	(703) 308-9287
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/8335
Fee Increase Questions	(703) 305-5125
Intellectual Property Questions	(703) 305-8217
Petitions/Special Programs	(703) 305-9282
Terminal Disclaimers	(703) 305-8408
Informal Fax for 3728	(703) 308-7769

If the information desired is not provided above, or has been changed, please do not call the examiner (this is the latest information provided to him) but the general information help line below.

Information Help line	1-800-786-9199
Internet PTO-Home Page	<a href="http://www.uspto.gov/">http://www.uspto.gov/</a>



Anthony D Stashick  
Examiner  
Art Unit 3728

ADS  
December 13, 2001